

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 23, 2004

IN RE:

**PETITION OF UNITED WAY OF
METROPOLITAN NASHVILLE FOR
ALLOCATION OF AN N11 NUMBER
(ABBREVIATED DIALING CODE)**

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**DOCKET NO.
03-00383**

**ORDER APPROVING REALLOCATION OF N11 NUMBER (211)
FROM NATIONAL TELEPHONE ENTERPRISES
TO UNITED WAY OF METROPOLITAN NASHVILLE**

This matter came before Director Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 21, 2003, to consider the Petition for Allocation of an N11 Number ("Petition") filed by United Way of Metropolitan Nashville ("United Way").¹ United Way filed its Petition with the Authority on June 5, 2003, seeking allocation of the 211 abbreviated dialing code to provide information and referral services to citizens in the Middle Tennessee Counties of Davidson, Rutherford, Williamson, Sumner, Wilson, Robertson, Cheatham, Dickson, Cannon and Trousdale. The panel also considered the recall of the 211 abbreviated dialing code previously allocated to National Telephone Enterprises ("NTE") in Nashville.

¹ This Order reflects action taken by the Authority, which in accordance with *Consumer Advocate Division v Tennessee Regulatory Authority*, No. 01A01-9708-BC-00391, 1998 WL 684536 (Tenn. Ct. App. July 1, 1998), is effective as of the date of the July 21, 2003 Authority Conference.

BACKGROUND

FCC's Third Report and Order

On July 31, 2000, the Federal Communications Commission ("FCC") released its *Third Report and Order and Order on Reconsideration* in CC Docket No. 92-105 ("*Third Report and Order*") in which the FCC granted a petition filed by information and referral service providers seeking nationwide assignment of an abbreviated dialing code.² In assigning the abbreviated dialing code 211 for access to community information and referral services, the FCC found that the proposal submitted by the petitioners met the "public interest" standards for assignment of N11 codes which the FCC established in its *N11 First Report and Order*.³ The FCC specifically found in the *Third Report and Order*:

Individuals facing serious threats to life, health, and mental well being have urgent and critical human needs that are not addressed by dialing 911 for emergency assistance or 311 for non-emergency police assistance. . . . We believe that the Information and Referral Petitioners have shown a public need exists for an easy to use, easy to remember N11 code to efficiently bring community information and referral services to those who need them, providing a national safety network for persons to get access readily to assistance. Therefore, we find that the public interest standard has been met.⁴

The FCC then outlined the necessary steps that must be taken by telecommunications service providers upon receiving a 211 request

[W]hen a provider of telecommunications services receives a request from an entity (e.g., the United Way) to use 211 for access to community information and referral services, the telecommunications provider must: (1) ensure that any entities that were using 211 at the local level prior to the effective date of this

² "Abbreviated dialing codes enable the caller to connect to a location in the network that otherwise would be accessible only via a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number and route the call accordingly. Among abbreviated dialing arrangements, 'N11' codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1." (Quoting from *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, (July 31, 2000) (*Third Report and Order and Order on Reconsideration*) (hereinafter *Third Report and Order*)).

³ *First Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd. 5572, CC Docket No. 92-105 (1997).

⁴ *Third Report and Order*, at Paras. 18-19.

Order relinquish use of the code for non-compliant services, and (2) take any steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area . . . We expect community service organizations to work cooperatively to ensure the greatest public use of this scarce resource⁵

The *Third Report and Order* also provides that the FCC, not the North American Numbering Plan Administration ("NANPA") or another entity, will continue to designate and assign N11 codes for nationwide use. Nevertheless, the FCC explicitly stated that local assignments could be made by the state commissions

Once we assign or designate an N11 for national use, essentially all that remains to do is to implement that assignment and monitor the uses of the N11 codes. We do not at this time decide what role, if any, state commissions may play once we make a national assignment. That role will necessarily be determined on a case by case basis as we make national assignments. We clarify, however, that states will be allowed to continue to make local assignments that do not conflict with our national assignments.⁶

TPSC's 1993 Interim Order

Prior to the issuance of the FCC's *Third Report and Order*, the Authority reviewed requests for the allocation of N11 numbers pursuant to criteria set forth in the Interim Order issued on October 20, 1993, by the Tennessee Public Service Commission ("TPSC") in TPSC Docket No 92-13892 ("TPSC Order"), to determine the most qualified applicant for allocation of each N11 number in each local calling area.⁷ The criteria in the TPSC Order included: (1) the overall financial fitness of the applicant; (2) the technical ability and willingness of the applicant to provide the service on a permanent and continuous basis; (3) the ability and willingness of the

⁵ *Id.*, at Para 21

⁶ *Id.*, at Para 43 The FCC described the assignment designation and implementation process as follows
Assignment or designation involves announcement to the industry that a particular N11 code will be used for certain, defined purpose(s) This announcement alerts current users of the N11 code that nonconforming uses must cease as part of the implementation process Implementation, on the other hand, may involve, in addition to discontinuing nonconforming uses, preparing and modifying switches to translate the N11 code and route the call accordingly, installing additional switching equipment, and installing or modifying software or other hardware (Para 43, n 123)

⁷ See *In re Petition of National Telephone Enterprises for Allocation of an N11 Number*, Docket No 98-00554, and *See In re Petition of Knoxville Information and Referral, Inc for Allocation of an N11 Number*, Docket No 99-00743

applicant to abide by applicable TPSC rules and policies, (4) the rates, services and collection practices to be utilized by the applicant; (5) the extent and duration of the applicant's service to the local community; (6) anticipated future uses by the community of the proposed service being offered by the applicant; and (7) the type of information services to be provided by the applicant over N11 and its relative value to the public and local community⁸

In Authority Docket No. 98-00554, the Authority allocated the 211 code in Knoxville, Nashville, Memphis and Chattanooga to National Telephone Enterprises ("NTE") for NTE's voice personal dating services. At the regularly scheduled Authority Conference held on April 6, 1999, NTE's application for the 211 code was granted by the Authority, subject to the requirements of BellSouth Telecommunications, Inc.'s ("BellSouth") General Subscriber Services Tariff A139.1.2D.⁹ The Authority's Order in Docket No. 98-00544, entered on June 22, 1999, allocated the 211 code to NTE with the express condition that N11 numbers are subject to recall from general use on six months notice or by order of the FCC's or any requirement established by the Administrator of NANPA

United Way's Petition

United Way filed its Petition with the Authority on June 5, 2003, seeking allocation of the 211 abbreviated dialing code. The Petition and supporting documentation demonstrated that United Way is a duly qualified and authorized non-profit corporation that intends to serve Davidson, Rutherford, Williamson, Sumner, Wilson, Robertson, Cheatham, Dickson, Cannon and Trousdale Counties by providing free information and referral guidance to people in need of social services and other assistance from a centralized source. United Way's Petition addresses

⁸ *In re Investigation of N11 Allocations*, Docket No. 92-13892, TPSC Interim Order, pp. 4-5 (October 20, 1993)

⁹ *See In re Petition of National Telephone Enterprises for Allocation of an N11 Number*, Docket No. 98-00554, *Order Granting Allocation of N11 Abbreviated Dialing Code*, (June 22, 1999) (Director Sara Kyle did not vote to approve NTE's Application)

all Authority requirements and includes consolidated financial statements and a budget for the first two years of its projected operations. United Way's Petition includes a photocopy of the letter from the President of Tennessee Alliance of Information & Referral Systems, Mr. Ronald E. Reid, endorsing United Way's Petition to receive the 211 number allocation.

FINDINGS AND CONCLUSIONS

Approval of United Way's Petition

At the July 21, 2003 Authority Conference the panel assigned to this docket granted United Way's Petition based upon the following findings and conclusions. The Authority concluded that reliance on the criteria in the TPSC Order does not conflict with the FCC's national assignment of the 211 abbreviated dialing code and that these criteria continue to be instructive as the Authority carries out its role of making local assignments.¹⁰ Accordingly, the Authority, found that the United Way's Petition satisfied the criteria in the following manner:

1 **Overall financial fitness, both historical and future:** In its petition, United Way indicated that it began in 1922 when the Nashville community joined together in raising funds for non-profit agencies that provide help to those in need in the community. This community effort was incorporated as the United Way in 1954. United Way stated that last year it raised in excess of \$23,000,000. United Way has provided to the Authority the audited financial statements for the years 2000 and 2001. For the year ending 2001, the financial statements show that United

¹⁰ The conclusion is consistent with the Authority's conclusions in *In re Petition of Contact Ministries, Inc. to Provide the 211 Information and Referral Services to Carter, Green, Unicoi and Washington Counties*, Docket No. 02-00126, *Order Approving Allocation of N11 Number (211) to Contact Ministries, Inc.* (May 13, 2002), *In re Petition of Contact-Concern of Northeast Tennessee, Inc. to Designate 211 Service for Non-Profit Health and Human Services Information and Referral Line for the Counties of Sullivan, Johnson and Hawkins, Tennessee*, Docket No. 02-00127, *Order Approving Allocation of N11 Number (211) to Contact-Concern of Northeast Tennessee, Inc.* (June 10, 2002), and *In re United Way of Greater Chattanooga's Petition to Provide 211 Information and Referral Services to the City of Chattanooga and the Surrounding Region*, Docket No. 02-00784, *Order Approving Allocation of N11 Number (211) to United Way of Greater Chattanooga* (April 7, 2003).

Way's unrestricted net assets were in excess of \$900,000 and more than \$4,000,000 in endowment funds. Temporarily restricted assets amounted to \$13,622,135, and permanently restricted net assets were \$4,107,407. United Way stated that \$13,130,911 was used to support allocations and operations of future periods. For the year ending 2001, United Way's total pledges receivable were \$16,872,034. United Way stated that the Board of Trustees is comprised of key business and community leaders to insure the continued financial solvency of the organization. Strategic plans are made by a committee for the continued growth of the financial stability of the organization. In addition, United Way stated that it is seeking additional funding from public sources and corporate and individual donors for the operation of the abbreviated access number service.

2. Overall technical ability and willingness to provide service on a permanent and continuous basis: United Way stated that it will provide N11 (211) service on a permanent and continuous basis. United Way intends to retain Crisis Intervention Center, Inc ("Center") to provide continuously information and referral service to the Nashville area twenty-four hours per day, seven days a week. First Call for Help will provide service for calls originating in Rutherford and Cannon Counties, Monday through Friday, 8:00 a.m. until 5:00 p.m., and the Center will provide service for such calls on evenings, weekends and holidays.

3. Ability and willingness to comply with any applicable Authority rules and policies United Way has provided a statement that it will follow the Authority's rules and policies.

4. The rates, services and collection practices to be utilized by the service provider in providing N11 service: United Way stated, "Petitioner is a not-for-profit entity committed to providing free community information and referral services to the population of the

Proposed Coverage Area. Petitioner proposes to pay all charges incurred in connection with the assignment and utilization of the abbreviated access code and the costs of ongoing operation of the abbreviated access number service.”¹¹

5. The extent and duration of the applicant’s service to the local community:

United Way stated that it has been committed to community service in the Metropolitan Nashville area since 1954. United Way explained that the organization’s mission statement is “to bring people and organizations together to create a community where individuals, families, and neighborhoods thrive.”¹² The letter of support from the President of Tennessee Alliance of Information & Referral Systems, Mr. Ronald E. Reid, states that the approval of United Way’s request would be a major step in the goal of 211 coverage for all Tennesseans.

6. Anticipated future uses by the community of the proposed service being offered by the Applicant: United Way intends to provide information and referral services to Davidson, Rutherford, Williamson, Sumner, Wilson, Robertson, Cheatham, Dickson, Cannon and Trousdale Counties. United Way stated that the community will be provided free information regarding community service organizations and referral guidance to individuals seeking social services and other assistance, as well. In offering the service, United Way plans to rely on the Center and First Call for Help for assistance. According to United Way, that Center has been serving Metropolitan Nashville since 1968, and receives 50,000 calls per year. The Center utilizes forty-four employees and seventy-five volunteers. The Center is certified by the American Association of Suicidology and is a member of The Alliance of Information and Referral Systems (“AIRS”). First Call for Help provides information and referral services to the

¹¹ *Petition for Allocation of an N11 Number* (Abbreviated Dialing Code), Docket No. 03-00383, p. 5 (June 5, 2003).

¹² *Id.*

citizens of Rutherford and Cannon Counties with three full-time employees and five volunteers. First Call for Help receives approximately 7,500 calls per year. First Call for Help is an AIRS affiliate, and the Director of the program is a certified Information and Referral Specialist.

7 The type of information services to be provided over N11 and its relative value to the public and local community. United Way maintains a comprehensive telephone help line and crisis intervention line. United Way stated that it expects between 50,000 and 65,000 calls during the first year of operation.

Based upon careful consideration of the Petition and the exhibits thereto, and in following the mandate set forth in the FCC's *Third Report and Order* and the criteria set forth in the TPSC's 1993 Interim Order, the panel voted unanimously to approve allocation of the 211 abbreviated dialing code to United Way in the Middle Tennessee Counties of Davidson, Rutherford, Williamson, Sumner, Wilson, Robertson, Cheatham, Dickson, Cannon and Trousdale.

Recall of 211 Dialing Code from NTE

In conjunction with approving United Way's Petition, the Authority acted at the July 21, 2003 Authority Conference to recall the 211 dialing code previously allocated to NTE in TRA Docket No. 98-00554. BellSouth's Tariff A139.1.2D sets forth the procedures for recalling an N11 dialing code.

The N11 subscriber must, prior to provisioning of the service, sign a written acknowledgement of this condition and an agreement to return the code upon receipt of 6 months written notice of such a recall from the Company and abide by any subsequent rules which may be identified by the FCC in CC Docket 92-105 regarding the use and return of such N11 codes. If a recall is effected, the Company will work with all N11 subscribers affected by such recall to transfer their service arrangements, if technically and economically feasible at the time, to an abbreviated dialing arrangement, and if not feasible, to a seven-digit dialing

arrangement within the 6-month notice period. The N11 subscriber will be required to migrate to any standard access arrangement for information services subsequently agreed to by the industry and approved by the FCC. The N11 subscriber will be charged the appropriate tariff rates for the establishment of the new access arrangement.

In TRA Docket No. 99-00743, Knoxville Information and Referral, Inc. ("KIR") filed a petition seeking the allocation of a 211 abbreviated dialing code for the Knoxville area. At that time, the 211 code in Knoxville, Nashville, Memphis and Chattanooga was allocated to NTE. The Authority found that KIR's petition met the criteria set forth in the TPSC Interim Order entered in Docket No. 92-13892 and approved the allocation of the 211 number to KIR. The Authority also revoked that the previous allocation of the 211 dialing code to NTE.¹³

The Authority sent a data request to BellSouth on June 13, 2003, regarding the status of the 211 number in the ten counties that are the subject of United Way's Petition. On June 24, 2003, BellSouth filed a response stating that the 211 code was working only in Davidson County of the BellSouth Nashville Exchange¹⁴ and was assigned to NTE. On July 2, 2003, NTE was notified by telephone of United Way's Petition for assignment of the 211 number, and a copy of the Petition was forwarded by facsimile transmission on that same day. The July 21, 2003 Authority Conference Agenda was forwarded by U.S. Mail to NTE.

During the Authority Conference on July 21, 2003, the panel considered the recall of the 211 number to NTE. No one appeared on behalf of NTE at the Conference. Upon reviewing the record, and recognizing the condition under which NTE received its 211 number allocation, the panel voted unanimously to recall the 211 number previously allocated to NTE.

¹³ See *In re Petition of Knoxville Information and Referral, Inc. for Allocation of an N11 Number*, Docket No. 99-00743, *Order Approving Reallocation of N11 Number (211) to Knoxville Information and Referral, Inc. and Allocating N11 Number (511) to National Telephone Enterprises*, Docket No. 99-00743 (July 14, 2000).

¹⁴ BellSouth's Nashville Exchange includes all of Davidson County and portions of other contiguous counties.

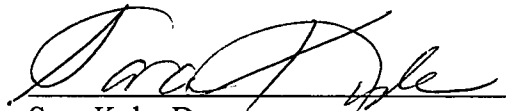
IT IS THEREFORE ORDERED THAT:

1 The *Petition for Allocation of an N11 Number* filed by United Way of Metropolitan Nashville seeking allocation of the 211 abbreviated dialing code to provide Information and Referral Services to Davidson, Rutherford, Williamson, Sumner, Wilson, Robertson, Cheatham, Dickson, Cannon and Trousdale Counties, is approved subject to the requirements of BellSouth Telecommunications, Inc.'s General Subscriber Services Tariff A139 1.2D


2 Pursuant to the July 31, 2000 Order issued by the Federal Communications Commission in CC Docket No. 92-105, and under the 1993 Tennessee Public Service Commission's Interim Order in Docket No 92-13892, the N11 (211) abbreviated dialing code allocated to National Telephone Enterprises shall be revoked and reallocated from National Telephone Enterprises to United Way of Metropolitan Nashville at the end of the six-month notice period as set forth in BellSouth Telecommunications, Inc.'s General Subscriber Services Tariff A139 1.2D.



Pat Miller, Director



Sara Kyle, Director



Ron Jones, Director